

Tacoma Narrows Bridge Citizen Advisory Committee

Frequently Asked Questions from Dec. 1, 2009

1-1. Question: Why are all violations for citations issued at the Tacoma Narrows Bridge toll plaza not collected by the Pierce County District Court?

Answer: The Pierce County District Court collects approximately 30 percent of the citations that are not dismissed through people responding to the notice. The remaining balance, are people contesting the violation and requesting a hearing, either in person or by mail. This group makes up 16 percent. The judge makes the determination if a Notice of Infraction is valid or not. WSDOT does not have adequate information to determine the number that are paid, reduced or dismissed after a hearing has been requested. More than half of the infractions that are sent to the Pierce County District Court are never responded to, are sent to collections and have a hold placed on their registration through the Department of Licensing (DOL).

Of \$52.00 that is assessed for each infraction, \$40 stays with the court and the remaining \$12 is sent to WSDOT as payment of the toll penalty. The table below depicts what portion is expected or has been received.

Description	Number	Toll Amount (x \$4)	Penalty Amount Expected (x \$12) by WSDOT	Toll Received by WSDOT (x \$4)	Penalty Amount Received by WSDOT (x \$12)
Issued Citations	274,595	\$1,098,380	\$3,295,140		
Dismissed*	10,984	\$43,936	\$131,808	\$43,936	
Outstanding Citations	263,611	\$1,054,444	\$3,163,332		
Paid	79,083				\$949,000
Hearings	42,178	\$175,740	\$527,222		
Collections	142,350	\$549,140	\$1,173,072		
Summary Total	182,528	\$724,880	\$1,700,292	\$43,936	\$949,000
Total Amount Received by WSDOT	\$992,936				

*Includes tolls previously paid, system errors or tolls paid through a new customer account

1-2. Question: What would the delay of operation and effects of staff support be if the cash toll rates required coinage from vehicles at the toll booth lanes?

Answer: Collecting coinage at the toll booth lanes has an adverse impact on operations and the customer. The operation would need to give collectors additional time to prepare, count and reconcile their deposits. There would also be additional costs associated with charges from financial institutions for providing coinage for change drawers and processing coinage. Customers would experience longer wait times in the toll lanes, as collectors have to give change back for each transaction.

Tacoma Narrows Bridge Citizen Advisory Committee

Frequently Asked Questions from Nov. 19, 2009

- 2-1. **Question:** What are the sources vs. the uses of the Tacoma Narrows Bridge Capital funds planned vs. actual?

Answer: See below chart

Tacoma Narrows Bridge Capital Construction Sources and Uses of Funds 2009 Plan Compared to the 2002 Plan State Fiscal Years 2002-2010 <i>Thousands of Dollars</i>		
	November 2009 Financial Plan*	July 2002 Financial Plan
Sources of Funds		
Interest Earnings	9	10
Net Bond Proceeds	678	792
Capitalized Interest	(4)	(73)
Transfers from Other Accounts	39	39
Total Sources of Funds for Capital	\$721	\$768
Uses of Funds		
Capital Construction	717	761
Total Uses of Funds for Capital	\$717	\$761
FY 2010 Ending Balance for Capital Const.	4	7
Interest Rates on Bonds Sold	4.93%	5.85%
Total Estimated Debt Service through FY 2030	1,496	1,783
* Includes actuals through FY 2009 and enacted budget for FY 2010. Interest rates experienced in the November 2009 Financial Plan are roughly estimated using the weighted average of bond issues.		

2-2. Question: For the year ending June 30 2009, an item is listed on the Tacoma Narrows Bridge Account Statements of Revenues, Expenditures and Changes in Fund Balance under Operating Expenditures - Goods and Services - Other for \$880,484. What types of expenditures make up that number?

Answer: See the table below for an explanation of what makes up the amount listed as "Other" on the June 30. 2009 financial statement.

Tacoma Narrows Bridge Account
Other Goods and Services Expenditures
State Fiscal Year 2009

<u>Type of Expense</u>	<u>Amount</u>
Financial Services (Auditing)	\$ 21,127.59
Excise Tax	\$ 17.14
Supplies and Materials*	\$ 596,635.36
Communications and Telecommunications	\$ 60,024.06
Rentals and Leases - Land and Buildings	\$ 128,134.50
Repairs, Alterations, and Maintenance	\$ 11,606.00
Printing and Reproduction	\$ 39,151.10
Employee Professional Development and Training	\$ 436.05
Rentals and Leases - Furnishings and Equipment	\$ 10,596.90
Subscriptions	\$ 1,833.50
Other Purchased Services	\$ 9,081.83
Other Goods and Services	\$ 1,839.68
Total	\$ 880,483.71

**Consists of the cost of transponders (\$617,998.95) and credits to supplies (-\$21,363.59).*

2-3. Question: Why was \$10,000 transferred to the Health Care Authority and how was the amount determined?

Answer: This amount is TNB's share of the funding to acquire a statewide insurance accounting system. Please see the attached memo (see page 3) from the statewide Office of Financial Management. Notice that the amount related to the Tacoma Narrows Bridge Account is listed with other transportation funds at the bottom of the memo. The amount of revenue transferred from TNB was calculated based upon employee head counts.



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

June 11, 2009

TO: Agency Budget and Fiscal Officers

FROM: Pam Davidson, Senior Budget Assistant to the Governor

SUBJECT: JUNE 2009 HCA BAIAS SYSTEM FUNDING

The following information is being provided to all agencies regarding a requirement in the 2009 Supplemental budget that changes the funding mechanism for the Health Care Authority's insurance accounting system that will ultimately handle employee health insurance payments from agencies. The information below provides background, budget language, and instructions on how to proceed. The attachment provides the specific dollars to be transferred for each account.

Please have the necessary transactions completed **by June 22, 2009**. For questions, please contact Suzanne Coit, Office of Financial Management, Statewide Accounting, 360.725.0187, or by email at Suzanne.coit@ofm.wa.gov.

Background

In a September 13, 2007 letter from the Department of Health and Human Services to all states, the federal government reasserted its prohibition on using federal resources to pay, either directly or indirectly, for large, enterprise-wide central services information technology systems. At that time, the Health Care Authority's insurance accounting system replacement project was funded from an administrative account supported by transfers from the Public Employees' and Retirees' Insurance Account. Because some of the expenditures in the account were supported by federal resources, this financing arrangement was not allowable under federal regulations. The alternative, approved in the budget by the Legislature, is to provide funding to the project from state funds that support Public Employees Benefit Board (PEBB)-eligible employees. The level of the transfer is based on head-count data used to determine statewide allocation of PEBB contribution rates. All amounts that had previously been funded by federal dollars are now covered by General Fund-State. All funding previously paid from dedicated accounts via employee health insurance (PEBB) payments will, for the 2007-09 Biennium, be acquired via revenue transfers from each account. The exceptions are the transportation and related General Fund-State accounts, from which appropriations have been made to the State Health Care Authority Administrative Account.

SPECIAL APPROPRIATIONS TO THE GOVERNOR--INSURANCE ACCOUNTING SYSTEM

ESHB 1978 Section 501: The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section fund various state transportation agencies to support the state insurance accounting system. The appropriations in this section are provided solely for expenditure into the health care authority administrative account.

Account Type	Account Name	Appropriated Transfer
Treasury	039 Aeronautics-State	\$ 2,000
	081 WSP Highway Account-State	\$ 338,000
	099 PS Cap Construction-State	\$ 24,000
	09H Transport Partner A-State	\$ 44,000
	106 Highway Safety Accnt-State	\$ 120,000
	108 Motor Vehicle Accnt-State	\$ 882,000
	109 Puget Sound Fry Oper-State	\$ 294,000
	112 M/V Urbn Art Trst-State	\$ 2,000
	144 Tran Improv Account-State	\$ 2,000
	201 DOL Services Account-State	\$ 2,000
	218 Multimodal Account-State	\$ 12,000
	511 Tacoma Narrows Toll-State	\$ 10,000
	550 Transportation 2003-State	\$ 120,000
TOTAL APPROPRIATION		\$ 1,852,000



OFM will make the expenditure

2-4. Question: Why are all violations for citations issued at the Tacoma Narrows Bridge toll plaza not collected by the Pierce County District Court?

Answer: Before the Washington State Patrol certifies a citation for Violation, that occur at the Tacoma Narrows Bridge toll facility, the violations go through a verification process. From July 2007 through November 2009 there were 912,117 potential violations of which, 409,360 were identified as customer accounts and the toll was deducted. Another 216,388 were rejected through the image review process. The three most common reasons for a rejected citation are: bad image taken/camera aim, obstructed view of license plate (tow hitch), and no license plate/temporary plate. In these situations, the license plate image is not clear and there is no way of linking the vehicle to a violation event. The Washington State Patrol certified 274,595 for adjudication at Pierce County District Court.

Once received by the Pierce County Court (PCC), another 4% (10,984) are dismissed by WSDOT through customer service. PCC has reported that 30 percent (79,083) pay on notification. This equates to approximately \$949,000. Out of the remaining 70 percent, approximately 16 percent ask for a hearing, where the judge determines if the violation should hold or be dismissed or reduced. 52 percent are ultimately sent to collections.

2-5. Question: How was the \$17.4 million in capital expenditures spent from Dec. 08 to present?

Answer: The \$17.4 million figure came from a spreadsheet titled Tacoma Narrows Bridge Capital Improvements dated December 11, 2008. This figure represented the "total" cost to complete the outstanding items of Capital Improvement. Many of these items were in progress or near completion. An example of this was the contract for the Tolling Collection System where \$12.6 million had already been expended prior to December 2008. A majority of the \$17.4 million had already been expended and this figure did not represent an estimate of the amount yet to be spent. In fact, only \$1.9 million have been expended on capital improvements between December 2008 and the present date. Beginning at the start of the current biennium (July 2009) the Legislature approved \$788,000 to complete all of the capital improvements on the project.

2-6. Question: What is the cost per transaction breakdown of electronic transactions versus manual cash transactions at the Tacoma Narrows Bridge toll facility?

- **Answer:** The following chart shows a cost breakdown of ETC vs. Cash transactions.

	Total	ETC	Cash
Total Labor	\$4,725,357	\$2,091,935	\$2,633,422
Total Expenses	\$1,425,400	\$730,080	\$695,320
Total Fee	\$922,614	\$423,302	\$499,311
Annual Cost Total	\$7,073,370	\$3,245,317	\$3,828,053
Monthly Cost Total	\$589,448	\$270,443	\$319,004
Estimated Annual Traffic	14,270,720	9,989,504	4,281,216
Extended Cost / Transaction	\$0.50	\$0.32	\$0.89

***Please Note:** Values based on WSDOT Toll Systems and Operations contract amounts. Does not include capital expenses, WSDOT staff, WSP enforcement, maintenance and preservation, or bridge insurance

2-7. Question: What are the details of the ten bond sales used for the Tacoma Narrows Bridge project?

Answer: There have been ten bond sales supporting the TNB projects. See below for individual bond sale information.

1- First Sale:

Series: State of Washington, Motor Vehicle Fuel Tax General Obligation Bonds, Series 2003C Sale date: 9/18/2002 Dated date: 10/2/2002
 Par Amount (Gross Proceeds): \$158,000,317.05 (\$371,975,000 Compound Accreted Value at Maturity)
 Awarded to: J.P. Morgan Securities, Inc. -- New York, NY Interest Rate: 4.857424% (TIC)

Non-Callable – Zero Coupon Bonds

Insured by*: MBIA

Premium: \$0

Cost of Issuance: \$71,510.64

Underwriters Discount: \$724,172.33

Funds delivered to the Tacoma Narrows Bridge Account: \$157,204,634.08

2- Second Sale:

Series: State of Washington, Motor Vehicle Fuel Tax General Obligation Bonds, Series 2003F Sale date: 1/22/2003 Dated date: 2/5/2003
 Par Amount (Gross Proceeds): \$75,001,618.40 (\$178,625,000 Compound Accreted

Value at Maturity)

Awarded to: Morgan Stanley, Dean Witter, New York, NY

Interest Rate: 5.237513% (TIC)

Non-Callable – Zero Coupon Bonds

Insured by*: MBIA

Premium: \$0

Cost of Issuance: \$60,250.00

Underwriters Discount: \$939,039.01

Funds delivered to the Tacoma Narrows Bridge Account: \$74,002,329.39

3 - Third Sale:

Series: State of Washington, Motor Vehicle Fuel Tax General Obligation

Bonds, Series 2004C Sale date: 7/22/2003 Dated date: 8/6/2003

Par Amount (Gross Proceeds): \$110,001,631.95 (\$266,910,000 Compound Accreted Value at Maturity)

Awarded to: Lehman Brothers, New York, NY

Interest Rate: 5.378896% (TIC)

Non-Callable – Zero Coupon Bonds

Insured by*: FGIC

Premium: \$0

Cost of Issuance: \$54,777.00

Underwriters Discount: \$1,737,560.48

Funds delivered to the Tacoma Narrows Bridge Account: \$108,209,294.47

4 - Fourth Sale:

Series: State of Washington, Motor Vehicle Fuel Tax General Obligation

Bonds, Series 2004F Sale date: 2/3/2004 Dated date: 2/19/2004

Par Amount (Gross Proceeds): \$89,982,568.15 (\$201,425,000 Compound Accreted Value at Maturity)

Awarded to: Goldman, Sachs & Co. - New York, NY

Interest Rate: 4.889481% (TIC)

Non-Callable – Zero Coupon Bonds

Insured by*: AMBAC

Premium: \$0

Cost of Issuance: \$45,436.00

Underwriters Discount: \$912,900.14

Funds delivered to the Tacoma Narrows Bridge Account: \$89,024,232.01

5 - Fifth Sale:

Series: State of Washington, Motor Vehicle Fuel Tax General Obligation

Bonds, Series 2005C Sale date: 7/13/2004 Dated date: 7/27/2004

Par Amount (Gross Proceeds): \$65,001,473.45 (\$139,050,000 Compound Accreted Value at Maturity)

Awarded to: Lehman Brothers - New York, NY

Interest Rate: 5.188052% (TIC)

Non-Callable – Zero Coupon Bonds

Insured by*: AMBAC

Premium: \$0

Cost of Issuance: \$31,777.00

Underwriters Discount: \$806,676.74

Funds delivered to the Tacoma Narrows Bridge Account: \$64,163,019.71

6- Sixth Sale:

Series: State of Washington, Motor Vehicle Fuel Tax General Obligation

Bonds, Series 2005F Sale date: 3/1/2005 Dated date: 3/15/2005

Par Amount (Gross Proceeds): \$45,001,192.45 (\$87,320,000 Compound Accreted Value at Maturity)

Awarded to: UBS Financial Services Inc. - New York, NY

Interest Rate: 4.8391517% (TIC)

Non-Callable – Zero Coupon Bonds

Insured by*: AMBAC

Premium: \$0

Cost of Issuance: \$32,091.00

Underwriters Discount: \$498,201.90

Funds delivered to the Tacoma Narrows Bridge Account: \$44,470,899.55

7 - Seventh Sale:

Series: State of Washington, Motor Vehicle Fuel Tax General Obligation

Bonds, Series 2006C Sale date: 9/7/2005 Dated date: 9/21/2005

Par Amount (Gross Proceeds): \$55,000,000.00

Awarded to: Citigroup Global Markets Inc

Interest Rate: 4.443042% (TIC)

Certain Maturity: 6/1/06 – 6/1/30 maturities

Call Date: Callable at 6/1/15

Premium: \$2,262,012.80

Cost of Issuance: \$69,350.00

Underwriters Discount: \$130,350.00

Net Proceeds: \$57,062,312.80

Transferred to Escrow for Debt Service: \$4,202,093.34

Funds delivered to the Tacoma Narrows Bridge Account: \$52,860,219.46

8 - Eighth Sale:

Series: State of Washington, Motor Vehicle Fuel Tax General Obligation

Bonds, Series 2006F Sale date: 1/24/2006 Dated date: 2/07/2006

Par Amount (Gross Proceeds): \$55,001,856.00 (\$100,735,000 Compound Accreted Value at Maturity)

Awarded to Morgan Stanley, Dean Witter, New York, NY

Interest Rate: 4.381372% (TIC)

Non-Callable – Zero Coupon Bonds

Insured by*: AMBAC

Premium: \$0

Cost of Issuance: \$31,688.00

Underwriters Discount: \$46,134.46

Funds delivered to the Tacoma Narrows Bridge Account: \$54,924,033.54

9 - Ninth Sale:

Series: State of Washington, Motor Vehicle Fuel Tax General Obligation

Bonds, Series 2007E Sale date: 1/23/2007 Dated date: 2/06/07

Par Amount (Gross Proceeds): \$16,180,976.45 (\$33,955,000 Compound Accreted Value at Maturity)

Awarded to LaSalle Financial Services, Inc., New York, NY

Interest Rate: 4.512695% (TIC)

Non-Callable – Zero Coupon Bonds

Insured by*: XL

Premium: \$0

Cost of Issuance: \$6,894.00

Underwriters Discount: \$172,058.63

Funds delivered to the Tacoma Narrows Bridge Account: \$16,002,023.82

10 - Tenth Sale:

Series: State of Washington, Motor Vehicle Fuel Tax General Obligation

Bonds, Series 2008B Sale date: 9/12/2007 Dated date: 9/26/2007

Amount: \$12,000,000.00 (\$20,004,333.33 Compound Accreted Value at Maturity)

Awarded to J.P. Morgan Securities, Inc., New York, NY

Interest Rate: 4.4316061% (TIC)

Premium: \$0

Cost of Issuance: \$138,376.06

Underwriters Discount: \$1,448,913.18

Funds delivered to the Tacoma Narrows Bridge Account: \$12,716,462.86

**Insurance purchased by the option of the underwriter. For the insured series, all maturities have been insured.*

Tacoma Narrows Bridge Citizen Advisory Committee

Frequently Asked Questions from Nov. 12, 2009

3-1. **Question** – If the CAC wants at least a \$5 million reserve, what toll rate would they need to recommend?

Answer – See scenario B in presentation

3-2. **Question** – What is the reason behind the Commute Trip Reduction charges to the toll program?

Answer – WSDOT participates in the statewide Commute Trip Reduction Program (RCW 70.94.547; WAC 468-63). When the WSDOT Gig Harbor Toll Operations office relocated to Seattle, in part to save money, all employees began commuting to Seattle and therefore, became participants in the WSDOT CTR Program. The Department allocates the costs of the WSDOT CTR Program to the organizations whose employees participate.

In the current Fiscal Year 2010, from July through October, a total of \$380.39 has been allocated to Toll Operations. This expenditure is accounted for in the B1 Program, Fund 108. It is not accounted for in TNB Fund 511, consistent with Executive Order E1057.00 issued March 2009.

3-3. **Question** - What are the annual cost savings to the Tacoma Narrows Bridge Account resulting from Executive Order E 1057.00 - Toll Revenue and Expenditure Accountability?

Answer - WSDOT spent approximately \$12,800 on the types of costs prohibited in the executive order in the twelve months prior to the March 12, 2009 effective date of the order. Prohibited costs represented about 0.1% of all operating expenditures within the Tacoma Narrows Bridge Account. We expect those costs would remain proportionate to the rest of the operating expenditures if they had remained in the Tacoma Narrows Bridge Account.

3-4. **Question** – What are the 2006 and 2007 operational costs incurred before bridge opening?

Answer – See pg. 3-11 : Letter from the Office of the Attorney General and Chart of Operating Expenditures Prior to Bridge Opening.

3-5. **Question** – Who is responsible for setting the reserve and coverage amounts in regards to financing with tolls?

Answer – The reserve amounts will be set by the Washington State Transportation Commission with guidance from the Office of the State Treasurer. This reserve amount is the projected ending balance in the account when toll rates are set. Refer to bullet number 4 in the included letter, pg.12. As part of their toll rate recommendation the CAC is effectively recommending what they would like to see set as the reserve amount.

3-6. **Question** – What is the percent of traffic in the electronic vs. manual lanes?

Answer – See below: Unaudited Tacoma Narrows Bridge Traffic



*Unaudited Tacoma Narrows Bridge Traffic
July 2009 through June 2011*

	Total Traffic Eastbound	Electronic		Manual		Potential Violations*		Non-Revenue Vehicles**	Comments
		# Vehicles	% Total	# Vehicles	% Total	# Vehicles	% Total		
JULY 2009 TOTAL	1,306,609	846,376	64.8%	426,012	32.6%	33,509	2.6%	712	
AUGUST 2009 TOTAL	1,294,569	837,291	64.7%	423,649	32.7%	33,017	2.6%	612	
SEPTEMBER 2009 TOTAL	1,215,868	825,440	67.9%	356,217	29.3%	33,565	2.8%	646	
OCTOBER 2009 TOTAL	1,207,464	848,738	70.3%	330,305	27.4%	27,718	2.3%	703	
NOVEMBER 2009 TOTAL									
DECEMBER 2009 TOTAL									
2009 (07/01 - 12/31) TOTAL	5,024,510	3,357,845	66.8%	1,536,183	30.6%	127,809	2.5%	2,673	
JANUARY 2010 TOTAL									
FEBRUARY 2010 TOTAL									
MARCH 2010 TOTAL									
APRIL 2010 TOTAL									
MAY 2010 TOTAL									
JUNE 2010 TOTAL									
FISCAL YEAR 2010 TOTAL	5,024,510	3,357,845	66.8%	1,536,183	30.6%	127,809	2.5%	2,673	
JULY 2010 TOTAL									
AUGUST 2010 TOTAL									
SEPTEMBER 2010 TOTAL									
OCTOBER 2010 TOTAL									
NOVEMBER 2010 TOTAL									
DECEMBER 2010 TOTAL									
2010 CALENDAR YEAR TOTAL	0	0		0		0		0	
JANUARY 2011 TOTAL									
FEBRUARY 2011 TOTAL									
MARCH 2011 TOTAL									
APRIL 2011 TOTAL									
MAY 2011 TOTAL									
JUNE 2011 TOTAL									
FISCAL YEAR 2011 TOTAL	0	0		0		0		0	
BIENNIUM 09-11 TOTAL	5,024,510	3,357,845	66.8%	1,536,183	30.6%	127,809	2.5%	2,673	
2011 (01/11 - 06/11)	0	0		0		0		0	
TOTAL TO DATE July 01, 2009 - June 30, 2011	5,024,510	3,357,845	66.8%	1,536,183	30.6%	127,809	2.5%	2,673	



Rob McKenna
ATTORNEY GENERAL OF WASHINGTON

Transportation & Public Construction Division
PO Box 40113 • Olympia WA 98504-0113 • (360) 753-6126

CLIENT ADVICE MEMORANDUM

DATE: December 1, 2009

TO: Craig Stone, Director
WSDOT Tolling Division

FROM: Elizabeth Lagerberg, AAG

SUBJECT: TNB Toll Operations -- Repayment of Expenditures

ISSUE:

Under state laws on tolling and the Transportation Budgets for 2006 through 2007, is WSDOT obligated to repay \$5.28 million appropriated and used for toll operations?

BACKGROUND:

In 2006, the Legislature appropriated \$8,294,000 from the Tacoma Narrows Toll Bridge Account to be used for Toll Operations and Maintenance. 2006 c 370 § 215. According to the budget notes, the money was intended to be used for toll collection and operations:

"This program provides for the Tacoma Narrows Bridge toll collection and related operations." 2006 Budget Notes.

The following year, the 2007 Supplemental Budget reduced the appropriation to \$5,288,000 to reflect the delayed opening of the new bridge. 2007c 518 §809; 2007 Supplemental Budget Notes. In addition to appropriating the funds, the Legislature recognized that the Tacoma Narrows Bridge Account did not contain sufficient funds to cover the appropriation and so directed that the \$5,288,000 be transferred from the Motor Vehicle Account to the Tacoma Narrows Toll Bridge Account. 2007 c 518 § 809; 2007 Supplemental Budget Notes.

During 2006 and 2007, WSDOT used the appropriated funds to pay for necessary expenses related to the implementation and operation of the TNB tolling program. The largest expenditures were for TransCore, the toll operations vendor and supplier of transponders for approximately \$3.8 million. Other significant expenditures included \$1 million categorized as architecture and engineering work for marketing and distribution of transponders, toll operations support and toll rate setting, and \$150,000 for IT services.

CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED COMMUNICATION
DO NOT DISCLOSE
CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED COMMUNICATION
DO NOT DISCLOSE

ATTORNEY GENERAL OF WASHINGTON

Craig Stone
December 1, 2009
Page 2

During the last session, the Legislature directed the State Treasurer to make an administrative transfer of the \$5.288 million from the Tacoma Narrows Bridge Toll Account back into the Motor Vehicle Account. 2009 c 470 § 407:

NEW SECTION. Sec. 407. FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS

(1) Tacoma Narrows Toll Bridge Account—State Appropriation: For transfer to the Motor Vehicle Account--State \$5,288,000

At a recent TNB Citizens Advisory Committee (CAC) Meeting, a debate arose about whether WSDOT was required to repay the \$5.288 million and if so, whether those funds had to come from the TNB Toll Account.

LEGAL ANALYSIS:

The \$5.288 million transferred from the Motor Vehicle Account into the TNB Toll Account in 2007 to pay for the first two years of toll operation expenses must be transferred back into the Motor Vehicle Account during the 2009-2011 budget cycle.

1. The \$5.288 million must be transferred to the Motor Vehicle Account.

Pursuant to the budget proviso described above, the State Treasurer must transfer \$5.288 million from the Tacoma Narrows Bridge Account into the Motor Vehicle Account as directed in the 2009 Transportation Budget. A budget proviso is valid and enforceable so long as it does not define rights, amend existing law, extend beyond the two year budget cycle and was not previously proposed as a substantive bill. *Retired Public Employees Council of Washington v. Charles*, 148 Wash.2d 602, 620, 62 P.3d 470 (2003).

The budget proviso requiring the administrative transfer is consistent with existing law which requires operational expenses for the Tacoma Narrows Bridge toll program be paid from Tacoma Narrows Bridge toll revenue. RCW 47.46.110; RCW 47.56.245. In addition, existing law requires that the Tacoma Narrows Bridge toll program repay any amounts paid from the Motor Vehicle Account, absent specific legislative direction that the amounts are nonreimbursable:

. . . Toll charges must remain on any facility financed by bonds issued by the state for a length of time necessary to repay the motor vehicle fund for any amounts expended from that fund for the design, development, right-of-way, financing, construction, maintenance, repair, or operation of the toll facility. . . . Funds specifically appropriated as a nonreimbursable state financial contribution to the project do not require repayment.

RCW 47.46.140 (emphasis added).

ATTORNEY GENERAL OF WASHINGTON

Craig Stone
December 1, 2009
Page 4

committee, the legislative evaluation and accountability program committee and others review transportation appropriations and expenditures pursuant to RCW 43.88.125. No concerns or questions were raised with respect to the 2006-2007 toll operations expenditures as a result of any of these reviews.

CONCLUSION: In short, neither the CAC nor WSDOT have the discretion to decide whether to repay the Motor Vehicle Account. The State Treasurer is directed to transfer the money in accordance with the 2009 legislation. Furthermore, it is my opinion that WSDOT acted according to law as it existed in 2006-07 in using the funds for toll operating expenses in 2006 and 2007. As with any informal opinion from an individual assistant attorney general, this memorandum reflects only my opinion, and does not represent a formal opinion of the Attorney General's Office. Several of the pertinent statutes are attached as Appendix A for your reference.

ATTORNEY GENERAL OF WASHINGTON

Craig Stone
December 1, 2009
Page 3

The amount transferred from the Motor Vehicle account to the TNB Toll Account has to be repaid as it does not fit the "nonreimbursable" exception. The legislature did appropriate \$1.3 million for the Tacoma Narrows Bridge from the Multimodal Transportation Account and added the specific condition that the appropriation was nonreimbursable and did not require repayment:

(d) The amount transferred in subsection (13) of this section is appropriated as a nonreimbursable state financial contribution to the project and does not require repayment.

2007 c 518 §809.

In contrast, the appropriation for \$5.288 million transfer from the motor vehicle account to the TNB toll account, contained in subsection (15) of the same section, was not subject to any such condition or limitation. Without the specific nonreimbursable language, the appropriation from the motor vehicle account must be repaid.

Thus, neither the State Treasurer nor WSDOT have discretion as to whether the \$5.288 million is transferred from the Tacoma Narrows Bridge Toll Account to the Motor Vehicle Account.

2. WSDOT acted upon the direction of the legislature.

The legislature directed WSDOT to operate the TNB tolling program and appropriated \$5.288 million to be used for that purpose in 2006 and 2007. In carrying out that direction, it appears that the WSDOT toll division acted within its discretion to make expenditures it deemed reasonable and necessary to TNB toll operations.

Applicable law in 2006 and 2007 stated that toll revenue could be used to pay costs of operation, maintenance, management and repairs of the toll facility. RCW 47.56.165. While changes to the statute in 2009 placed further guidelines on the use of toll revenues, no additional statutory or regulatory guidelines existed at the time the 2006-2007 expenses were incurred or paid.

Looking generally at the definition of operating expenses, they are defined as expenses incurred in the course of ordinary activities of an entity. *Blacks Law Dictionary*, 1991.

WSDOT used the \$5.288 million to pay the operating expenses that it incurred in the ordinary course of operating its toll facility. WSDOT accounting and financial staff were involved in the initial expenditure decisions and the more recent review of those expenditures. These WSDOT staff are satisfied that no expenses listed within WSDOT's 2006-2007 Biennium Operating Expenditures are outside the ordinary course of operating a tolling program. Absent guidance from statute or regulation, it was within WSDOT's discretion to operate the toll facility and make payments for operational expenses as it deems necessary.

Finally, WSDOT regularly performs internal audits pursuant to RCW 47.88.160 and the legislative transportation committees together with the joint legislative audit and review

Appendix A

RCW 47.46.140 Repayment of motor vehicle funds from toll charges.

Toll charges must be used to repay the motor vehicle fund consistent with RCW 47.56.165 for any amounts transferred from the motor vehicle fund to the highway bond retirement fund under RCW 47.10.847 to provide for bond retirement and interest on bonds issued for the Tacoma Narrows public-private initiative project. Toll charges must remain on any facility financed by bonds issued by the state for a length of time necessary to repay the motor vehicle fund for any amounts expended from that fund for the design, development, right-of-way, financing, construction, maintenance, repair, or operation of the toll facility or for amounts transferred from the motor vehicle fund to the highway bond retirement fund under RCW 47.10.847 to provide for bond retirement and interest on bonds issued for the Tacoma Narrows public-private initiative project. Funds specifically appropriated as a nonreimbursable state financial contribution to the project do not require repayment

RCW 47.46.110 Tolls – Term, use.

(1) The commission shall retain toll charges on any existing and future facilities constructed under this chapter and financed primarily by bonds issued by the state until:

(a) All costs of investigation, financing, acquisition of property, and construction advanced from the motor vehicle fund have been fully repaid, except as provided in subsection

(2)(b) of this section;

(b) Obligations incurred in constructing that facility have been fully paid; and

(c) The motor vehicle fund is fully repaid under RCW 47.46.140.

(2) This section does not:

(a) Prohibit the use of toll revenues to fund maintenance, operations, or management of facilities constructed under this chapter except as prohibited by RCW 47.56.245;

(b) Require repayment of funds specifically appropriated as a nonreimbursable state financial contribution to a project.

(3) Notwithstanding the provisions of subsection (2)(a) of this section, upon satisfaction of the conditions enumerated in subsection (1) of this section:

(a) The facility must be operated as a toll-free facility; and

(b) The operation, maintenance, upkeep, and repair of the facility must be paid from funds appropriated for the use of the department for the construction and maintenance of the primary state highways of the state of Washington.

[2002 c 114 § 8.]

RCW 47.56.165 Tacoma Narrows Bridge toll bridge account.

A special account to be known as the Tacoma Narrows toll bridge account is created in the motor vehicle fund in the state treasury.

(1) Deposits to the account must include:

(a) All proceeds of bonds issued for construction of the Tacoma Narrows public-private initiative project, including any capitalized interest;

(b) All of the toll charges and other revenues received from the operation of the Tacoma Narrows bridge as a toll facility, to be deposited at least monthly;

(c) Any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for the purpose of building the second Tacoma Narrows bridge; and

(e) All liquidated damages collected under any contract involving the construction of the second Tacoma Narrows bridge.

(2) Proceeds of bonds shall be used consistent with RCW 47.46.130, including the reimbursement of expenses and fees incurred under agreements entered into under RCW 47.46.040 as required by those agreements.

(3) Toll charges, other revenues, and interest may only be used to:

(a) Pay required costs that contribute directly to the financing, operation, maintenance, management, and necessary repairs of the tolled facility, as determined by rule by the transportation commission; and

(b) Repay amounts to the motor vehicle fund as required under RCW 47.46.140.

(4) Toll charges, other revenues, and interest may not be used to pay for costs that do not contribute directly to the financing, operation, maintenance, management, and necessary repairs of the tolled facility, as determined by rule by the transportation commission.

(5) The department shall make detailed quarterly expenditure reports available to the transportation commission and to the public on the department's web site using current department resources.

(6) When repaying the motor vehicle fund under RCW 47.46.140, the state treasurer shall transfer funds from the Tacoma Narrows toll bridge account to the motor vehicle fund on or before each debt service date for bonds issued for the Tacoma Narrows public-private initiative project in an amount sufficient to repay the motor vehicle fund for amounts transferred from that fund to the highway bond retirement fund to provide for any bond principal and interest due on that date. The state treasurer may establish subaccounts for the purpose of segregating toll charges, bond sale proceeds, and other revenues.

[2009 c 567 § 1; 2006 c 17 § 1; 2002 c 114 § 11.]

Tacoma Narrows Bridge Chart of Operating Expenditures Prior to Bridge Opening

Year	Fund	Program	Object	Object Name	Payee Name	Expended
2006	511	B	ER06	Other Services	Transcore Its Inc	489,766.00
2006	511	B	EZ01	Other Goods And Services	DW Not Required	5,070.60
2006	511	B	GC01	Private Automobile Mileage	Pope, Rufus David	14.24
2006	511	B	GD04	Other Travel Expenses W/ Trip #	Pope, Rufus David	102.61
2006	511	B	GF04	Out-State Sub/Lodge W/ Trip #	Pope, Rufus David	1,314.92
2006	511	B	GG01	Out-State Air Transportation	Chase Manhattan Bank Db	999.60
2006	511	B	GG04	Out-State Air Trans W/ Trip #	Chase Manhattan Bank Db	1,765.89
2006	511	B	JK01	Architectural/Engineering	Post Buckley Schuh & Jernigan	21,136.21
2006	511	B	TA11	Work Time Charges - Regular	DW Not Required	147,437.51
TOTAL						667,807.58

Year	Fund	Program	Object	Object Name	Payee Name	Expended
2007	511	B	CA01	Management & Organization	Sussman, Stephen	24,703.18
2007	511	B	EA01	Supplies & Materials	DW Not Required	900.00
2007	511	B	EA01	Supplies & Materials	Matkin, Janet	10.06
2007	511	B	EA01	Supplies & Materials	Ws Revenue, Dept Of	5.00
2007	511	B	EA01	Supplies & Materials	Ws Transportation, Dept Of	522.38
2007	511	B	EA01	Supplies & Materials	Yasenchak, Jessica E	242.98
2007	511	B	EA08	Telephones Non-Inventoried/Non-Ca	Verizon Wireless	1,557.04
2007	511	B	EA21	Light Refreshments	Broussard, Lucinda L	73.32
2007	511	B	EA21	Light Refreshments	Chase Manhattan Bank Db	124.48
2007	511	B	EA21	Light Refreshments	Matkin, Janet	21.68
2007	511	B	EA21	Light Refreshments	Shellenhamer, Janelle	43.98
2007	511	B	EA21	Light Refreshments	Ws Transportation, Dept Of	103.79
2007	511	B	EA21	Light Refreshments	Yasenchak, Jessica E	81.54
2007	511	B	EA30	Purchase Of Bulk Transponders	DW Not Required	-342,630.55
2007	511	B	EA30	Purchase Of Bulk Transponders	Transcore Its Inc	607,860.00
2007	511	B	EA30	Purchase Of Bulk Transponders	Ws Revenue, Dept Of	46,005.61
2007	511	B	EA79	Inventory Issues-Debit	DW Not Required	4,924.74
2007	511	B	EB02	Communications - Other	U S Postmaster	7,199.83
2007	511	B	EB02	Communications - Other	Ws Transportation, Dept Of	7.15
2007	511	B	EB03	Communications-Cellular	Nextel Communications	81.00
2007	511	B	EB03	Communications-Cellular	Nextel Sprint	223.57
2007	511	B	EB03	Communications-Cellular	Verizon Wireless	1,969.92
2007	511	B	ED02	Tef Equipment Rental	DW Not Required	968.15
2007	511	B	ED03	Rent & Leases-All Other	Ws Transportation, Dept Of	300.02
2007	511	B	ED06	Rental For Exhibition Booth	Tacoma Pierce County	50.00
2007	511	B	EF01	Printing Services	Ws Printing, Dept Of	30,607.63
2007	511	B	EF01	Printing Services	Ws Transportation, Dept Of	542.40
2007	511	B	EF01	Printing Services	Yasenchak, Jessica E	256.07
2007	511	B	EF02	Books, Written Materials	Ws Transportation, Dept Of	17.94
2007	511	B	EG01	Training Registration Fees	DW Not Required	188.59
2007	511	B	EG01	Training Registration Fees	Northwest Clearing House	100.00

2007	511	B	EG01	Training Registration Fees	Ramco Consulting Service Inc	266.66
2007	511	B	EG94	Registration Fees W/ Trip #	International Bridge Tunnel	570.00
2007	511	B	EJ01	Subscriptions	Ws Transportation, Dept Of	19.95
2007	511	B	ER06	Other Services	Mills & Lessard Inc	1,770.00
2007	511	B	ER06	Other Services	Transcore Its Inc	2,697,853.95
2007	511	B	ER06	Other Services	Van Pelt Corbett Bellows	203.50
2007	511	B	ER15	Services Rendered By Other State B	Ws Ga Real Estate Services	2,628.25
2007	511	B	ER16	Services Rendered By Other Govern	Texas Dot	2,110.21
2007	511	B	ER28	Install/Repair Data Line	City Of Tacoma	25,505.67
2007	511	B	ER28	Install/Repair Data Line	Netversant Washington Inc	28,802.53
2007	511	B	EZ08	Promotion Of Programs	Multicare Health Foundation	3,000.00
2007	511	B	EZ08	Promotion Of Programs	Ws Transportation, Dept Of	86.43
2007	511	B	EZ86	Bank Fees	Discover Network	88.83
2007	511	B	EZ86	Bank Fees	Ws Ost Banking Services (076)	115.00
2007	511	B	EZ87	Merchant Discount Fees	American Express	1,736.83
2007	511	B	EZ87	Merchant Discount Fees	Ba Merchant Services	28,616.44
2007	511	B	EZ97	Manufactured Signs	DW Not Required	8,182.18
2007	511	B	GA01	In-State Subsistence/Lod	Hamilton, Laura	52.00
2007	511	B	GA01	In-State Subsistence/Lod	Kelly, Jennice	26.00
2007	511	B	GA02	In-State Subsistence Tax	Broussard, Lucinda L	26.00
2007	511	B	GA02	In-State Subsistence Tax	Lovelace, Ramona	44.00
2007	511	B	GA02	In-State Subsistence Tax	Matkin, Janet	95.00
2007	511	B	GA02	In-State Subsistence Tax	Yasenchak, Jessica E	52.00
2007	511	B	GC01	Private Automobile Milea	Broussard, Lucinda L	598.90
2007	511	B	GC01	Private Automobile Mileage	DW Not Required	0.00
2007	511	B	GC01	Private Automobile Mileage	Hamilton, Laura	33.38
2007	511	B	GC01	Private Automobile Mileage	Kelly, Jennice	629.96
2007	511	B	GC01	Private Automobile Mileage	Lovelace, Ramona	321.08
2007	511	B	GC01	Private Automobile Mileage	Matkin, Janet	1,236.32
2007	511	B	GC01	Private Automobile Mileage	Pope, Rufus David	15.04
2007	511	B	GC01	Private Automobile Mileage	Shellenhamer, Janelle	436.51
2007	511	B	GC01	Private Automobile Mileage	Yasenchak, Jessica E	1,096.10
2007	511	B	GC01	Private Automobile Mileage	Yates, Marcella L	46.56
2007	511	B	GD01	Other Travel Expenses	Broussard, Lucinda L	18.00
2007	511	B	GD01	Other Travel Expenses	Yasenchak, Jessica E	60.75
2007	511	B	GD03	Meals With Meetings	Ws Transportation, Dept Of	1,187.20
2007	511	B	GD04	Other Travel Expenses W/ Trip #	Broussard, Lucinda L	212.06
2007	511	B	GD04	Other Travel Expenses W/ Trip #	Lovelace, Ramona	54.42
2007	511	B	GD04	Other Travel Expenses W/ Trip #	Pope, Rufus David	76.00
2007	511	B	GD04	Other Travel Expenses W/ Trip #	Yates, Marcella L	98.06
2007	511	B	GF04	Out-State Sub/Lodge W/ Trip #	Broussard, Lucinda L	687.53
2007	511	B	GF04	Out-State Sub/Lodge W/ Trip #	Lovelace, Ramona	642.48
2007	511	B	GF04	Out-State Sub/Lodge W/ Trip #	Pope, Rufus David	1,061.85
2007	511	B	GF04	Out-State Sub/Lodge W/ Trip #	Yates, Marcella L	1,250.14
2007	511	B	GG04	Out-State Air Trans W/ Trip #	Chase Manhattan Bank Db	3,001.60
2007	511	B	GN01	Motor Pool Services - Gen Administ	Ws Ga Motor Transport (422)	44.58
2007	511	B	GN02	Tef Equip Rental-Per W/E	DW Not Required	2,188.91
2007	511	B	GN12	Non-Participating Tef Equip Rental	DW Not Required	0.85
2007	511	B	JA04	Equipment-Inventoried-Non Capitali	C C I Solutions	14,792.32
2007	511	B	JA06	IT Hardware Inventoried/Non-Capita	Ws Transportation, Dept Of	14,124.74

2007	511	B	JA07	IT Software Inventoried	Ws Revenue, Dept Of	150.36
2007	511	B	JA07	IT Software Inventoried	Ws Transportation, Dept Of	1,790.00
2007	511	B	JA08	IT Hardware Non-Inv/Non-Cap	Cisco Systems	10,577.15
2007	511	B	JA08	IT Hardware Non-Inv/Non-Cap	Netversant Washington Inc	31,871.71
2007	511	B	JA08	IT Hardware Non-Inv/Non-Cap	Wire One Communications Inc	6,992.59
2007	511	B	JA08	IT Hardware Non-Inv/Non-Cap	Ws Transportation, Dept Of	4,303.80
2007	511	B	JC02	Capitalized Equip Donated	Bud Clary Of Yakima	24,000.92
2007	511	B	JK01	Architectural/Engineering	Frank Wilson & Associates	556,677.41
2007	511	B	JK01	Architectural/Engineering	I B I Group Us	4,018.93
2007	511	B	JK01	Architectural/Engineering	Post Buckley Schuh & Jernigan	258,405.97
2007	511	B	JK01	Architectural/Engineering	Trd Frameworks	24,500.00
2007	511	B	JK01	Architectural/Engineering	Wilbur Smith Associates	35,754.26
2007	511	B	NZ19	Employee Safety Award	DW Not Required	370.33
2007	511	B	TA10	Work Time Charges - Overtime	DW Not Required	4,544.75
2007	511	B	TA11	Work Time Charges - Regular	DW Not Required	423,572.52
2007	511	B	TE73	OSC Printing Services	DW Not Required	33.45
TOTAL						4,620,392.42
COMBINED 2006 and 2007 TOTAL						5,288,000.00



JAMES L. McINTIRE
State Treasurer

State of Washington
Office of the Treasurer

March 30, 2009

Paula Hammond, Secretary
Washington State Department of Transportation
Transportation Building
310 Maple Park Ave
PO Box 47300
Olympia, WA 98504

Dear Ms. Hammond,

Washington is developing the design and finance plans for major transportation projects in at least three significant state corridors. They include East and West routes across Lake Washington, North and South routes through Central Seattle and a new Interstate bridge across the Columbia River in Clark County.

Federal and state transportation policy experts agree that the fuel taxes are no longer a sustainable or sufficient revenue source for funding new transportation infrastructure. Few major transportation projects are being funded without tolls in this country. Tolling has become a fundamental and inevitable element of transportation financing.

As the elected official charged with ensuring that the state's debt financing achieves the lowest possible costs for the long-term needs of the taxpayers, I am writing to recommend that any tolling legislation incorporate the following principles. These market-based principles are forward looking goals for the state's economic vitality. They reflect bond market realities and national trends for financing transportation improvements. These principles will deliver the best bond ratings and the lowest financing costs.

- Tolling is most effective when used to finance the transportation system within a corridor, not individual projects or facilities. For example, in the cross-lake corridor, it would be important to have the capacity to toll both the 520 and I-90 bridges to finance improvements on either bridge.
- Early tolling saves interest costs, yields better revenue estimates, and ultimately helps lower financing costs.
- Measures that enhance the predictability of toll revenues and reduce their volatility will result in lower financing costs and will better protect the state's credit rating. A key consideration is broadening the sources of toll revenue



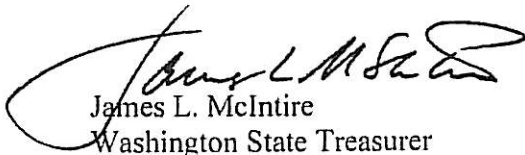
credit rating. A key consideration is broadening the sources of toll revenue beyond individual projects and facilities to incorporate a transportation corridor. A broader, blended revenue stream helps create a more stable, predictable basis for financing.

- It is critical to delegate toll-setting authority to an independent government body, so that future political and regulatory decisions do not compromise the financing mechanism.
- If toll revenues are to serve as the basis for financing, the toll-setting policy of this body is most effective when it includes a requirement to set tolls sufficient to pay for debt service and a reserve account. This means that bond documents must include a contractual commitment to meet a specified coverage ratio with a cushion of reserves.
- It may be most efficient to delegate the specific form of financing to the State Finance Committee so that financing decisions can take into account market conditions at the time of sale.
- Effective corridor tolling can help mitigate congestion, prevent traffic diversion, and avoid piecemeal tolling that can result in higher tolls, construction costs, administrative costs, and traffic delays due to a poorly coordinated transportation system.

The state is developing finance plans for several multi-billion dollar projects. By establishing and applying these guidelines, we can create a consistent and rational system for transportation funding, achieve the maximum value for the public's tax dollars, and avoid impairing our capacity for financing future improvements in schools and other public infrastructure projects.

I appreciate that there are several difficult decisions to be made in financing these major projects. My office will make every effort to work constructively with the Legislature and Executive agencies to find a way to integrate these principles with the political realities of the decision making process.

Sincerely,



James L. McIntire
Washington State Treasurer

Cc: Gov. Christine Gregoire,
Frank Chopp, Speaker of the House
Lisa Brown, Senate Majority Leader
Mary Margaret Haugen, Chairwoman Senate Transportation Committee
Judy Clibborn, Chairwoman House Transportation Committee